

REMARKS

The present amendment is submitted in response to the Office Action dated August 30, 2007, which set a three-month period for response, making this amendment due by November 30, 2007.

Claims 1-2 and 7-13 are pending in this application.

In the Office Action, claims 3, 5, and 12 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Claims 1-5, 7-9, 12, and 13 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,015,017 to Lauterwald. Claim 6 was rejected under 35 U.S.C. 103(a) as being unpatentable over Lauterwald. Claims 10 and 11 were rejected under 35 U.S.C. 103(a) as being unpatentable over Lauterwald in view of U.S. Patent No. 7,121,359 to Frauhammer et al.

In the present amendment, the specification was amended to delete reference to the claims and to add standard headings.

Claims 3 and 5 have been canceled. Claim 12 was amended to address the formal rejection under Section 112, second paragraph, specifically, by rewriting claim 12 into independent form.

To more clearly define the present invention over the cited references, claims 1 and 12 were amended to define that the *"eccentric element (12) has a guide surface (24, 26) provided to convert the rotational displacement (14) using a contact point (28, 30) that travels on the guide surface (24, 26) during the rotational displacement (14), wherein the guide surface (24) is substantially*

parabolic in shape”, as originally recited in claims 4 and 6. Amended claims 1 and 12 define further that “*a vertex of the parabolic-shaped guide surface (24) points outwardly in a radial direction*”. Support for this feature can be found in the specification on page 3, third paragraph. Finally, amended claims 1 and 12 include the features of claim 2, specifically that the shape of the eccentric element 12 differs significantly from a circular shape. Claim 2 was therefore canceled.

The Applicants respectfully submit that amended claims 1 and 12 are neither anticipated by nor made obvious over the Lauterwald reference.

As the Examiner admits on page 4 of the Office Action, Lauterwald “lacks the guide surface being parabolic in shape”. In addition, Lauterwald therefore cannot teach that a vertex of the parabolic-shaped guide surface points outwardly in a radial direction.

The Applicants respectfully disagree with the Examiner that it would be obvious to one skilled in the art to form the element “with a parabolic shape since to do so is within the engineering purview of the artisan concerned with providing for a smooth transition between operating modes”. As disclosed on page 3, third paragraph of the specification, this specific parabolic design was established, so that when the contact point moves in the region of the vertex of the parabola, “an at least considerable independence of the position of the switching element from a rotary position of the operating element can be attained, by way of which an advantageous tolerance insensitivity can be attained in this region”.

The Examiner's analysis that such a design would be obvious, the Applicants submit, constitutes impermissible hindsight made only with knowledge of the present invention, since Lauterwald and all of the other cited references are all completely silent as to modifying the eccentric element's guide surface into the specific parabolic shape disclosed and claimed in the present application. The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious ***unless the prior art suggested the desirability of the modification. In re Fritch***, 23 USPQ 2d 1780, 1783-84 (Fed. Cir. 1992) (emphasis added).

Furthermore, it is respectfully submitted that since the prior art does not suggest the desirability of the claimed invention, such art cannot establish a prima facie case of obviousness as clearly set forth in MPEP section 2143.01. Please note also that the modification proposed by the Examiner would change the principle of operation of the prior art, so that also for this reason the references are not sufficient to render the claims prima facie obvious (see the last paragraph of the aforementioned MPEP section 2143.01).

The application in its amended state is believed to be in condition for allowance. Action to this end is courteously solicited. Should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss appropriate claim language that will place the application into condition for allowance.

Respectfully submitted,

A handwritten signature in black ink, consisting of several fluid, connected strokes.

Michael J. Striker
Attorney for Applicant(s)
Reg. No. 27233
103 East Neck Road
Huntington, New York 11743
631-549-4700